

Attorney Docket No.: J6834(C)  
Serial No.: 10/667,922  
Filed: September 22, 2003  
Confirmation No.: 9900

### **REMARKS**

Form PTOL-326, box 2(b) has been ticked indicating a Non-Final Action. This conflicts with a statement on page 2, second paragraph of the Office Action noting that the rejections were made Final. Applicant assumes the Office Action is a Final one.

Claims 1, 4 and 7-11 were rejected for obviousness-type double patenting over claims 1-2 of U.S. Patent Application Publication bearing Serial No. 10/697,608 (Barrow et al.). Applicant traverses this rejection.

The Publication with Serial No. 10/697,608 lacks essential features of the present claims 1, 4 and 7-11. The Publication claims lack mention of any solid carrier. Secondly, the Publication claims fail to disclose fragrance that is deposited onto any form of solid carrier much less a carrier constituted of destructureized starch. For these reasons applicant considers this rejection inappropriate.

In the event the Examiner maintains this rejection, she may wish to remove claim 7. Claim 7 had been canceled in applicant's last amendment.

Claims 1-17 were rejected under 35 U.S.C. § 103(a) as obvious over U.S. Patent 5,925,380 (Roulier et al.) in view of U.S. Patent 6,248,338 (Muller et al.) and in further view of U.S. Patent 5,382,611 (Step toe et al.). Applicant traverses this rejection.

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The present invention concerns an improved manner of delivering fragrance in solid cosmetic systems. It has been found that a fragrance is expressed with greater intensity when added to a destructured starch as a solid carrier for the fragrance.

Roulier et al. discloses an expanded solid composition whose matrix comprises a cellular network formed from a starch-rich product.

Applicant's independent claims require the presence of a fragrance deposited onto destructured starch. Roulier et al. is silent with respect to any fragrance or the importance of using destructured starch. Muller et al. was cited for teaching fragrance. Indeed, Applicant recognizes that fragrance is a well known cosmetic ingredient.

Where the combined references are deficient is their lack in teaching or motivating the placement of fragrance onto a solid starch body. Muller et al. as seen in the Examples mixes perfume together with all other ingredients. This is quite different than in the present invention. Compare applicant's Example 1 with that of Muller et al. Example 1-3 process descriptions. Applicant deposits the fragrance onto a solid rather than into a mix with all other cosmetic agents/ingredients. Roulier et al. discloses solids such as pellets or powder which are partially constituted of at least some starch. While it might be desirable to incorporate a perfume or fragrance, the most likely incorporation procedure would be to mix this into the formulas of the Examples. In these Examples, mixing is done within various zones of an extruder. This contrasts with the claimed feature of fragrance being deposited onto a solid carrier, namely destructured starch. The Roulier et al. formulas by lesson from Muller et al. would place perfume or


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fragrance within the overall formula rather than depositing it specifically on a solidified starch. Steptoe et al. does not remedy this lack of disclosure. The references simply fail to appreciate this aspect. A *prima facie* case of obviousness has not been presented.

The Examiner in her final comments (page 7, last paragraph) considers applicant's arguments about unexpected results to be but a mere allegation lacking factual support. Again, applicant directs the Examiner to Example 21. Applicant shows that destructurez corn starch better expressed fragrance over a prolonged period of time in contrast to unmodified corn starch.

In view of the foregoing comments, applicant requests the Examiner to reconsider the rejection and now allow the claims.

Respectfully submitted,



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